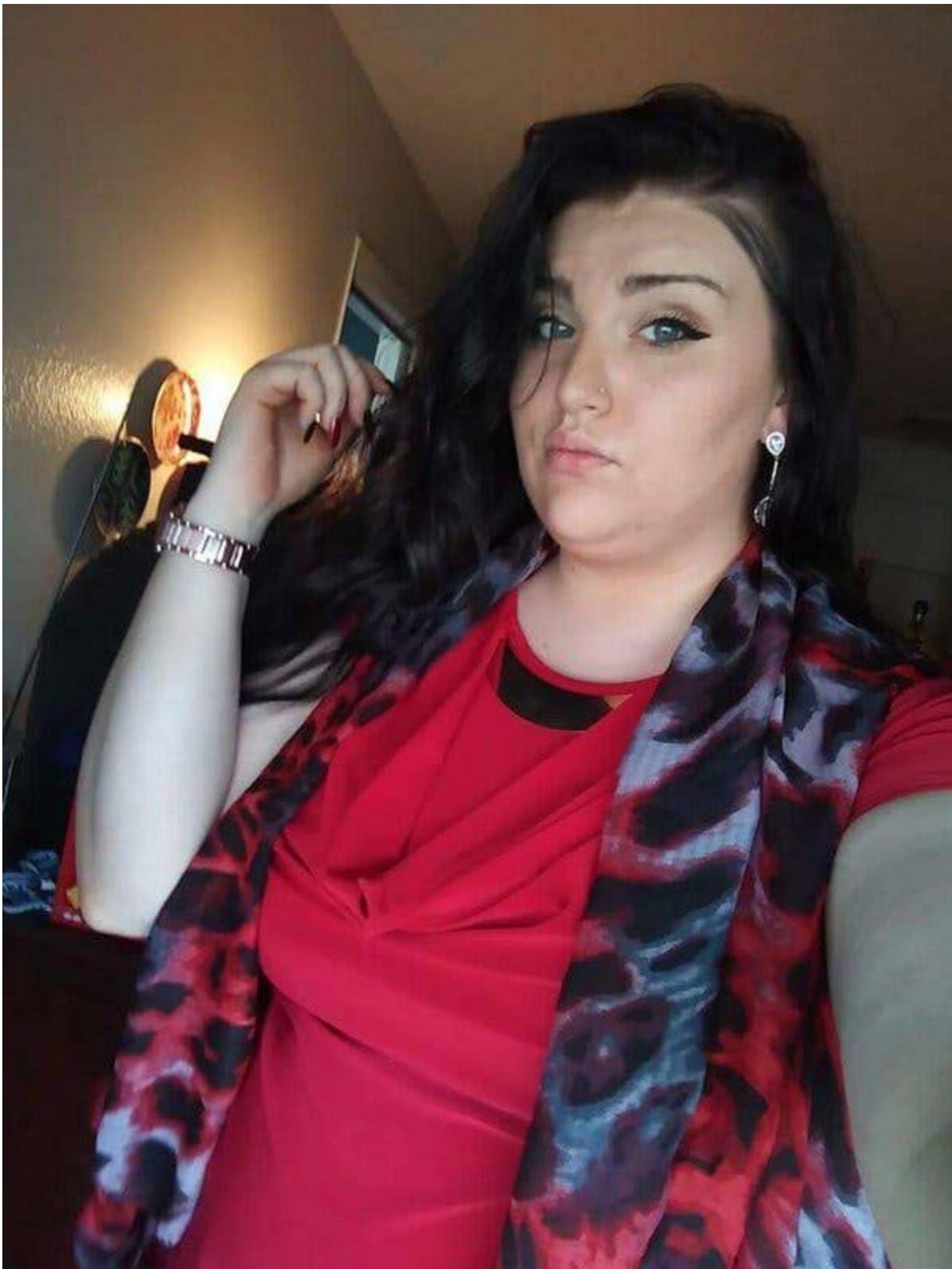


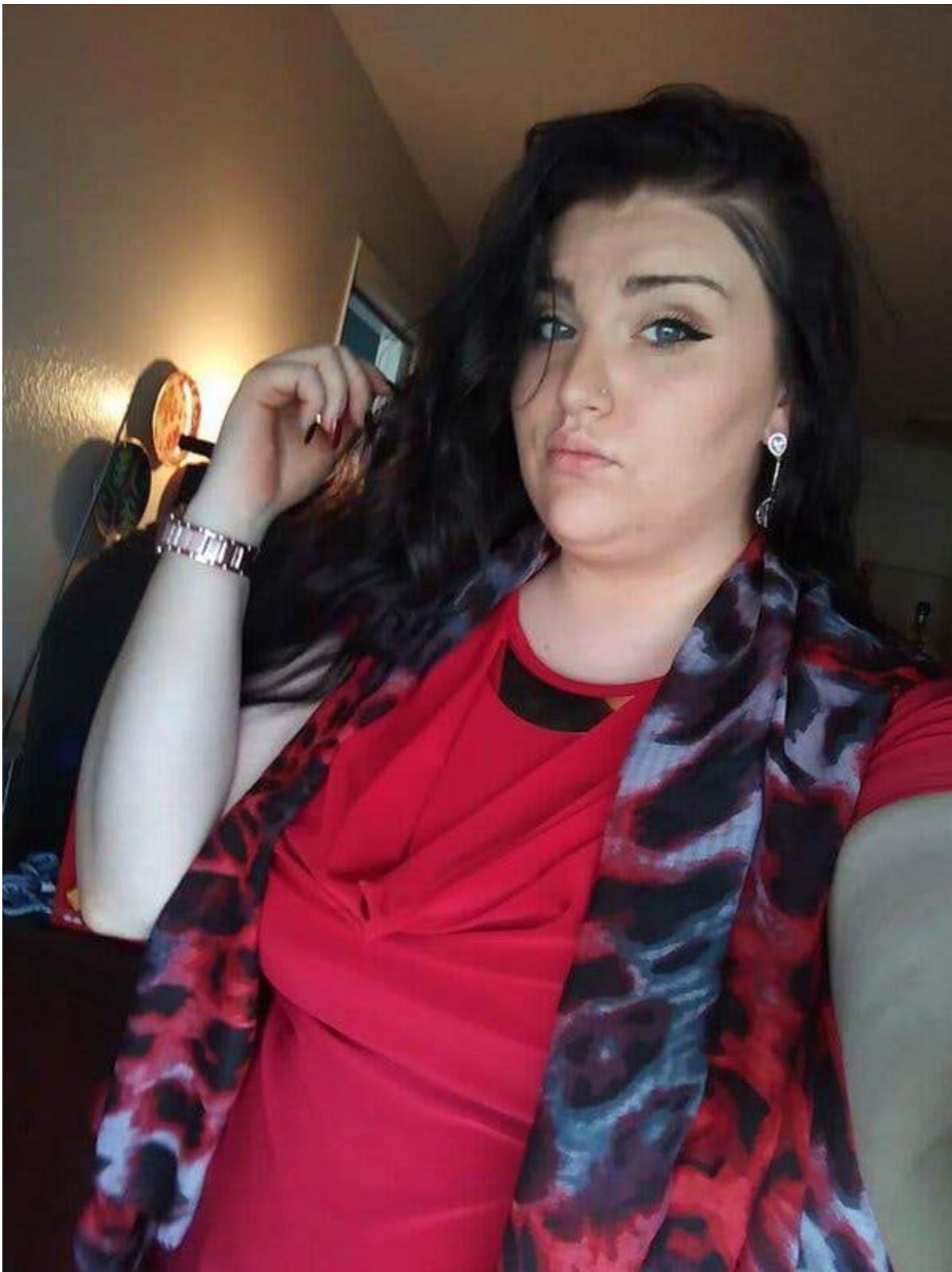
From: [Allen, Mark](#)
To: [Thurman, Joyce](#)
Subject: FW: A Historic Supreme Court Ruling Upends Courts in Oklahoma
Date: Tuesday, September 15, 2020 11:02:25 AM

From: Weiler, Gregory <weiler.gregory@epa.gov>
Sent: Tuesday, August 04, 2020 6:48 AM
To: Luschek, Robert <Luschek.Robert@epa.gov>; Stuckey, Troy <Stuckey.Troy@epa.gov>; Nann, Barbara <nann.barbara@epa.gov>; Gee, Randy <Gee.Randy@epa.gov>; Allen, Mark <Allen.Mark@epa.gov>; ryan.williams@ag.ok.gov
Cc: Livingston, Pat <Livingston.Patricia@epa.gov>; Baumgartner, Donald <baumgartner.donald@epa.gov>; Rush, Randall <Rush.Randall@epa.gov>; Ayres, Sara <Ayres.Sara@epa.gov>; Ron Smith <ron.smith49@icloud.com>
Subject: A Historic Supreme Court Ruling Upends Courts in Oklahoma

A Historic Supreme Court Ruling Upends Courts in Oklahoma

Local prosecutors are referring criminal cases to the federal and tribal courts, which are now flooded with new cases.





Kelsey Lipp, a member of the Cherokee Nation who was charged with murder and robbery, saw her legal case turned upside down by a landmark Supreme Court ruling that limited Oklahoma's ability to prosecute tribal citizens.

By [Jack Healy](#)

Published Aug. 3, 2020 Updated Aug. 4, 2020, 12:16 a.m. ET

TULSA, Okla. — Kelsey Lipp was sitting in jail, charged with robbery and murder, when her lawyer walked into court with three pieces of paper and a new plan to get her case thrown out.

The documentation he had looked sparse: A letter identifying Ms. Lipp as a citizen of the Cherokee Nation and grainy photocopies of her tribal identification card. But under a landmark Supreme Court decision last month declaring that a huge patch of Oklahoma sits on a Native American reservation, those papers now meant that the state could not prosecute Ms. Lipp or thousands of other tribal citizens like her.

“It’s a no-brainer,” her Tulsa County public defender, Jack Gordon, said.

The Supreme Court ruling [recognizing the lands of the Muscogee \(Creek\) Nation](#) was hailed as a historic win for tribes and their long struggle for sovereignty. On the ground, it has upended Oklahoma’s justice system, forcing lawyers and the police to rewrite the rules of who they can and cannot prosecute inside the newly recognized borders of a reservation that stretches across 11 counties and includes Tulsa, the state’s second-largest city.

Prosecutors are giving police officers laminated index cards that spell out how to proceed depending on whether suspects and victims are “Indian” or “non-Indian.”

ADVERTISEMENT

[Continue reading the main story](#)

“It’s unprecedented,” said R. Trent Shores, the United States attorney for the Northern District of Oklahoma in Tulsa.

Elected district attorneys handle most criminal cases in America, but they generally have little to no authority over tribal citizens for crimes committed on reservations. So now, from downtown Tulsa through rolling farms and dozens of small towns in eastern Oklahoma, local prosecutors are handing off hundreds of criminal cases involving tribal victims and defendants.

- [Unlock more free articles.](#)

[Create an account or log in](#)

“My voice mail got filled up in two hours,” said Stephen Lee, a criminal defense lawyer in Tulsa. “People with loved ones who are locked up, people with pending cases.”

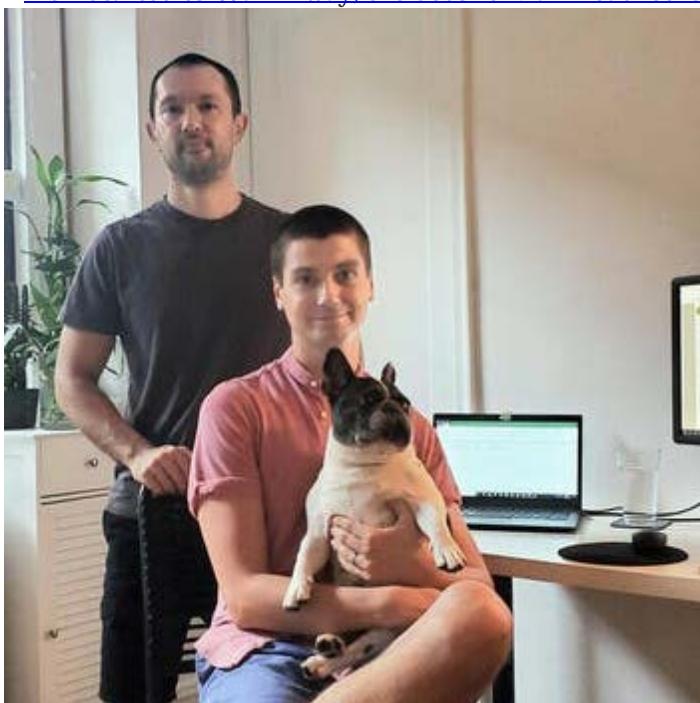
Local prosecutors are referring dozens of murders, robberies and sexual assaults to federal prosecutors, who have responsibility for major crimes on tribal lands. Lesser cases are being handed over to tribal courts, which can only hand down smaller fines and sentences of a year or less in most cases.

The flood of new cases is threatening to overwhelm the smaller rosters of judges, attorneys and victims’ advocates in federal and tribal courts. There are just two judges on the Muscogee Nation’s court, and tribal officials say they will need more money and staff to handle hundreds of additional cases.

Editors’ Picks



'As I Started to Walk Away, the Second Man Reached Out His Hand'



Two People in One Small Studio? This Couple Figured They Could Manage



[The Pandemic Could End the Age of Midpriced Dining](#)

[Continue reading the main story](#)

ADVERTISEMENT

[Continue reading the main story](#)

The fatal shooting that led to Ms. Lipp's arrest began when a 25-year-old man was lured to her apartment in July 2018 on the promise he would get a kiss in exchange for \$100, investigators say. The victim, Dustin Barham, was robbed and shot, bleeding to death, prosecutors say. Ms. Lipp, her cousin and cousin's boyfriend have been charged in his killing.

Mr. Gordon, Ms. Lipp's lawyer, said Ms. Lipp denied any role in the murder, and hoped that moving the case from state court to federal court could lead to a plea deal or re-examination of what he called a flawed case against Ms. Lipp. "We're better off over there," he said. Mr. Barham's mother, Andra, said she had already waited two years for justice for her dead son, whom she called a "good-hearted person," and worried that refiling the criminal case in federal court would add years of additional delays.

"We're looking at starting over," she said. "It's frustrating."

The Muscogee Nation established its court system in 1867, and tribal prosecutors and judges say their courtrooms are the best forums for Indigenous people to get justice and a fair hearing. "We understand these people are going back into our community," said Gregory Bigler, one of the Muscogee district judges.

But they are now confronting a thicket of complications: How will the tribal court in the small town of Okmulgee, home of the Muscogee (Creek) Nation's headquarters, handle cases when people are arrested an hour away in Tulsa for shoplifting or low-level drug possession? Does it make sense to spend money jailing them or transporting them to hearings?

"We're going to have to grow exponentially," said Shannon Prescott, the other Muscogee district judge.

One recent morning, the tribal court was shuffling through the day's criminal charges and pleas through a video hearing when a bald man in an orange jumpsuit shuffled in front of the camera. He had been arrested in Tulsa on a charge of threatening violence but was brought to the Okmulgee County Jail and handed over to tribal court when the police

realized he had an Osage ancestry.

ADVERTISEMENT

[Continue reading the main story](#)

“That would have been a Tulsa case,” Mark Thetford, a Muscogee prosecutor, said. “It’s kind of crazy right now.”

In Tulsa, federal prosecutors have vowed “seamless jurisdiction” and said tribes and law enforcement agencies have a long history of cooperation. Nevertheless, the federal government is scrambling to find more lawyers and staff members to handle the surge. The U.S. attorney’s office in Tulsa files about 250 felony cases annually, compared with the 6,000 felonies that churn through Tulsa’s county courts each year.

“It’s a lot more than we normally do,” Mr. Shores, the United States attorney, said. “There’s only so much we’re able to take.”

Native Americans convicted by state courts have begun filing appeals arguing the state did not have the power to try them. Four Cherokee citizens have filed a class-action lawsuit demanding that Oklahoma return millions of dollars in court fees and fines that Indigenous defendants have been ordered to pay over the years.

Some criminal cases have been upended when the victim, not the defendant, turns out to be a tribal member.

Dustin Dennis, who prosecutors said was not a tribal member, was charged with second-degree murder in July after his young son and daughter, Teagan, 4, and Ryan, 3, were found dead in his sweltering pickup. The children climbed into the car and were apparently overcome by the heat while Mr. Dennis slept, prosecutors said.

Tulsa County prosecutors had to drop the case when it turned out the children were Cherokee on their mother’s side. Mr. Dennis was charged federally with child neglect, but the Tulsa district attorney, Steve Kunzweiler, said it had been devastating to tell the children’s mother he was dropping the case.

ADVERTISEMENT

[Continue reading the main story](#)

“She thinks she’s on her path to justice, and I’m telling her I have to dismiss this charge,” Mr. Kunzweiler said. “I’m just worried about all these victims out there who’ve believed they’re getting justice only to have justice interrupted.”

Mr. Shores, the U.S. attorney in Tulsa, said his office had reached out to the children’s mother to assure her they were continuing the case. In a brief interview, the mother, Cheyenne Trent, said that “I just want justice for my two babies, that’s it.”

Beyond crime scenes and courtrooms, the ripples are radiating to other reservations across Oklahoma.



Image



Steve Kunzweiler, the Tulsa district attorney, fears that disruption to the courts will mean delays in justice for victims and their families. Credit...Chris Creese for The New York Times
The Supreme Court's decision dealt with the boundaries of the Muscogee (Creek) Nation, but nearly half of Oklahoma rests on land of five tribes whose members were forced west along the Trail of Tears in the 1800s — an expanse with nearly 2 million residents.

Legal experts say that eastern Oklahoma's other tribes — the Choctaw, Chickasaw, Seminole and Cherokee nations — now have strong arguments that their lands should also be legally recognized as reservations.

The question now, Indigenous leaders and activists said, is whether they will be able to hold on to their recent gains or see them undone.

ADVERTISEMENT

[Continue reading the main story](#)

To address the “unpredictability” created by the Supreme Court decision, Gov. Kevin Stitt, a Republican, created a 10-member commission to study the fallout and make recommendations to the state. But tribal leaders say they were excluded from the panel, which is led by a former oil executive and made up of Republican politicians and business leaders.

Indigenous activists say they are worried that industry leaders, to protect their interests against any new regulations, will push through legislation that could dilute tribal powers or even basically dissolve their reservations.

The question of whether to work with Congress on a new law addressing tribal sovereignty has divided Oklahoma's tribes. The Muscogee and Seminole nations are [opposed](#). But Principal Chief Chuck Hoskin Jr. of the Cherokee Nation said the tribes could either work with Congress or become the victims of yet another law stripping them of land and power. “I know my history, and I know when we've made advances, Congress can push back,” Mr. Hoskin said. “They possess the power to do injury to us. I don't have the luxury of closing my eyes and covering my ears and hoping for the best.”

Alison Arkeketa is among those hoping their loved ones can get a fresh chance at justice from a different court. Her fiancé is facing up to 10 years in prison for illegally possessing a gun as a felon convicted of assault, but Ms. Arkeketa said he needed substance-abuse counseling and not another decade in prison — “to be treated like a human.”

That decision will now likely lie with a federal or tribal judge. A lawyer for her fiancé recently filed a motion arguing for a dismissal because his Creek citizenship put him out of reach of the local county court.

A Landmark Ruling on Tribal Rights

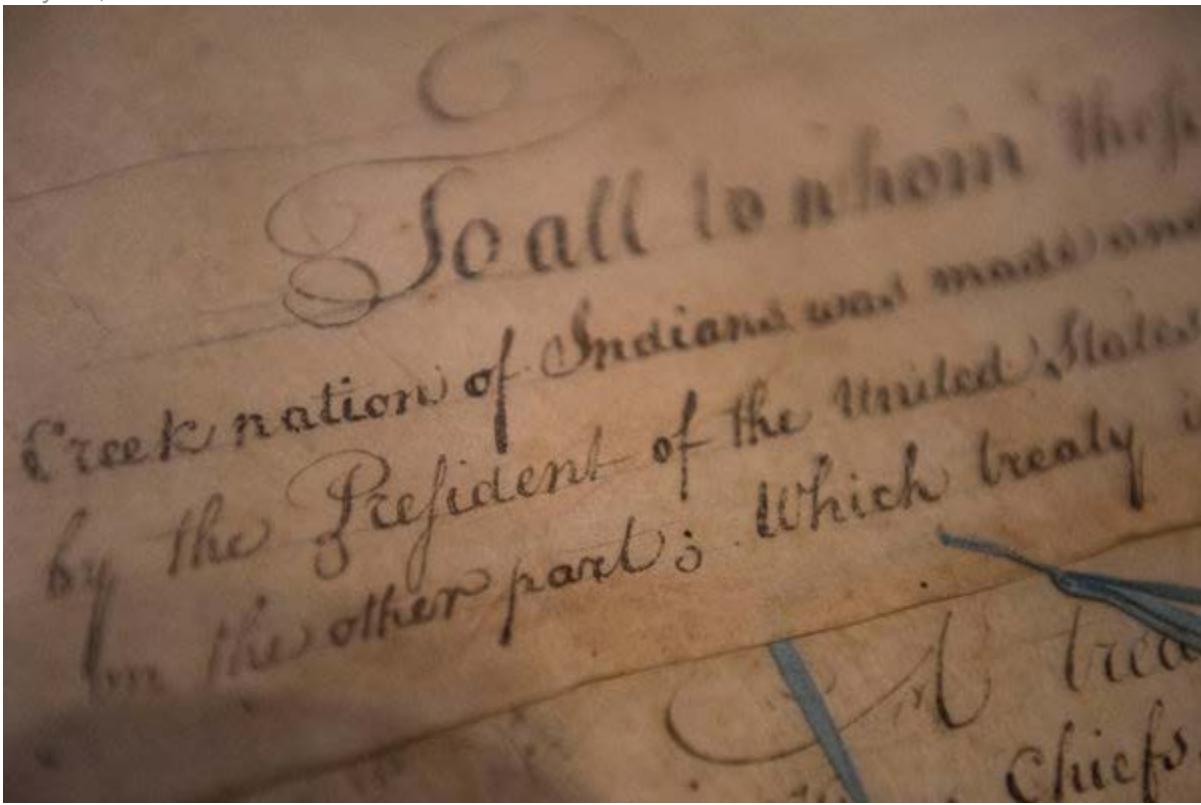
[Landmark Supreme Court Ruling Affirms Native American Rights in Oklahoma](#)

July 9, 2020



[For Oklahoma Tribe, Vindication at Long Last](#)

[July 11, 2020](#)



[Opinion | Joy Harjo](#)

[After a Trail of Tears, Justice for 'Indian Country'](#)

July 14, 2020



Jack Healy is a Colorado-based national correspondent who focuses on rural places and life outside America's "City Limits" signs. He has worked in Iraq and Afghanistan and is a graduate of the University of Missouri's journalism school. [@jackhealynyt](#) · [Facebook](#)

A version of this article appears in print on

Aug. 4, 2020

, Section A, Page 17 of the New York edition with the headline: A Landmark Supreme Court Win for Tribes Upends the Justice System in Oklahoma. [Order Reprints](#) | [Today's Paper](#) | [Subscribe](#)

From: The New York Times <nytdirect@nytimes.com>

Sent: Tuesday, August 4, 2020 3:01 AM

To: Weiler, Gregory <weiler.gregory@epa.gov>

Subject: Today's Headlines: With Jobless Aid Expired, Trump Sidelines Himself in Stimulus Talks

[View in Browser](#) | Add nytdirect@nytimes.com to your address book.



[Most Popular](#) | [Video](#) | [Subscribe](#): [Digital](#) / [Home Delivery](#) [My Account](#)

Today's Headlines



Tuesday, August 4, 2020



Top News

With Jobless Aid Expired, Trump Sidelines Himself in Stimulus Talks

By Maggie Haberman, Emily Cochrane and Jim Tankersley

As his top advisers met with Democratic leaders to try to hash out a compromise, President Trump hurled insults at Democrats and mused aloud about short-circuiting the talks and acting on his own.



D.A. Is Investigating Trump and His Company Over Fraud, Filing Suggests



By William K. Rashbaum and Benjamin Weiser

The office of the district attorney, Cyrus R. Vance Jr., made the disclosure in a new court filing arguing Mr. Trump's accountants should turn over his tax returns.

Rescue of Troubled Trucking Company With White House Ties Draws Scrutiny

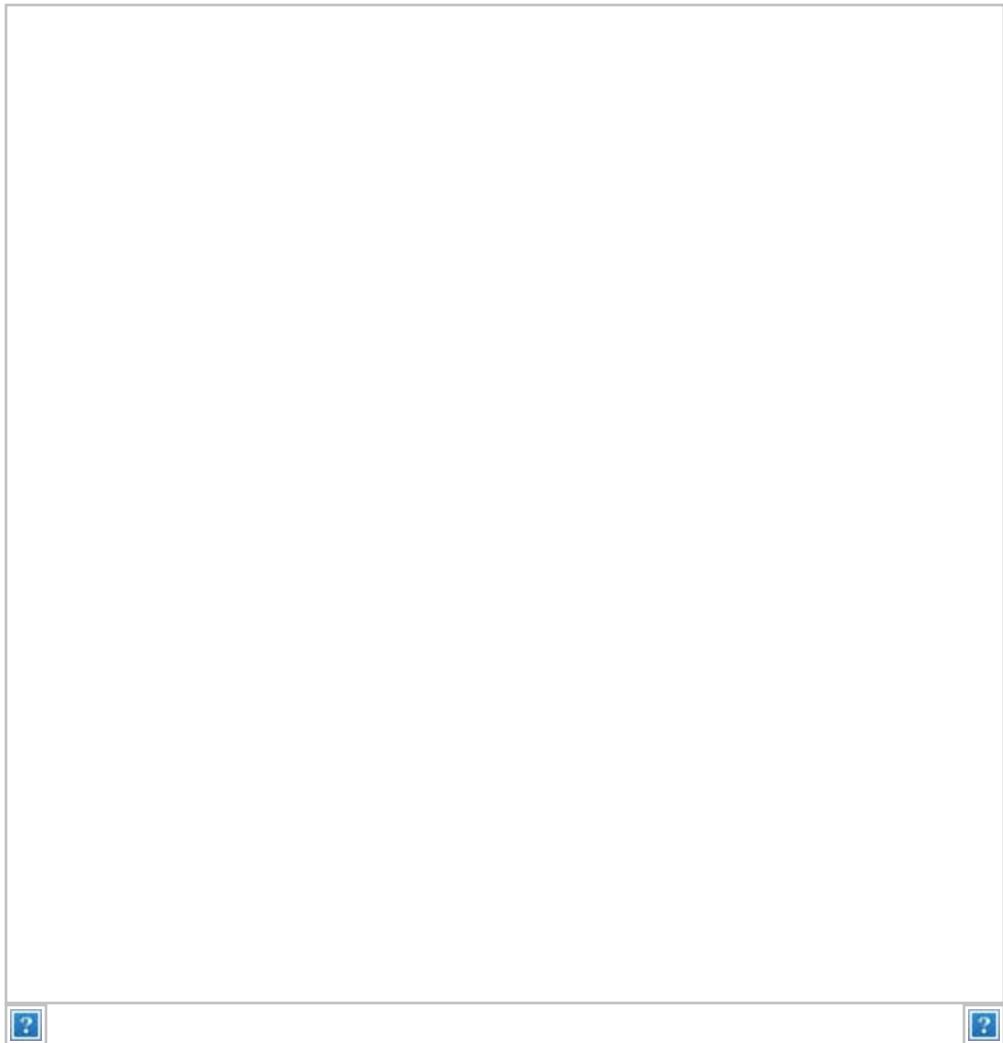


By Alan Rappeport

Members of a congressional oversight panel want to know how YRC Worldwide won a \$700 million loan from the Treasury Department.

For more top news, go to [NYTimes.com »](#)

ADVERTISEMENT



Editors' Picks

U.S.

[**The Mask Slackers of 1918**](#)

By Christine Hauser

As the influenza pandemic swept across the United States in 1918 and 1919, masks took a role in political and cultural wars.



OPINION | THE CONVERSATION

[**Trump Doesn't Like What He Sees in the Crystal Ball**](#)

By Gail Collins and Bret Stephens

Besides delaying the election, what else could alter his political trajectory?



World

When Covid Subsided, Israel Reopened Its Schools. It Didn't Go Well.

By Isabel Kershner and Pam Belluck



As countries consider back-to-school strategies for the fall, a coronavirus outbreak at a Jerusalem high school offers a cautionary tale.

Juan Carlos, Spain's Former King, Quits Country Amid Multiple Investigations

By Raphael Minder



The former king's departure, which comes as he faces financial inquiries, may fuel Spain's political and social debate over the future of the monarchy.

Turkish Aggression Is NATO's 'Elephant in the Room'

By Steven Erlanger



Despite being a NATO member, Turkey has bought Russian air defense. And a recent push into Libya and its energy ambitions nearly led to armed conflicts with France and Greece.

For more world news, go to [NYTimes.com/World »](#)

U.S.

East Coast Braces for Floods and Wind as Isaias Intensifies

By Rick Rojas and Lucy Tompkins



A heavy soaking is expected in the Carolinas and Maryland, with tropical storm warnings and watches in effect all the way up the Eastern Seaboard.

A Historic Supreme Court Ruling Upends Courts in Oklahoma

By Jack Healy

Local prosecutors are referring criminal cases to the federal and tribal courts, which are now flooded with new cases.

SIDE BAR

[**A Vast Racial Gap in Death Penalty Cases, New Study Finds**](#)

By Adam Liptak

Defendants convicted of killing white people, the study found, were far more likely to be executed than the killers of Black people.



For more U.S. news, go to [NYTimes.com/US »](#)

Politics

[**TikTok, Trump and an Impulse to Act as C.E.O. to Corporate America**](#)

By Ana Swanson and Michael D. Shear

The president's interventions in company dealings based on his own instincts are a departure from the arm's-length approach of predecessors of either party.



[**How Joe Arpaio's Fate in Arizona Could Be a Window Into Trump's**](#)

By Hank Stephenson

The polarizing former sheriff of Maricopa County, a stylistic doppelgänger to President Trump, is running for his old office in a state where approval of both men has slid.



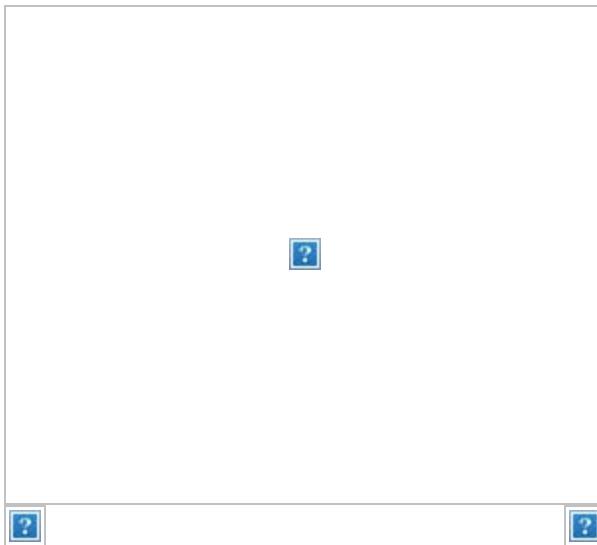
[**Trump Puts Pentagon in Political Crossfire With Tata Appointment**](#)

By Helene Cooper

The president sidestepped Congress when it became clear that his nominee for a top Defense Department position would not win Senate approval.



ADVERTISEMENT



Business

[**A Hospital Forgot to Bill Her Coronavirus Test. It Cost Her \\$1,980.**](#)

By Sarah Kliff

Send us your medical bills. We'll use them to investigate hospital and doctor billing practices.



[**Small Businesses Got Emergency Loans, but Not What They Expected**](#)

By Stacy Cowley

The S.B.A.'s disaster relief program allows for loans of up to \$2 million. But now they're capped at \$150,000 — and agency officials are saying little about why.



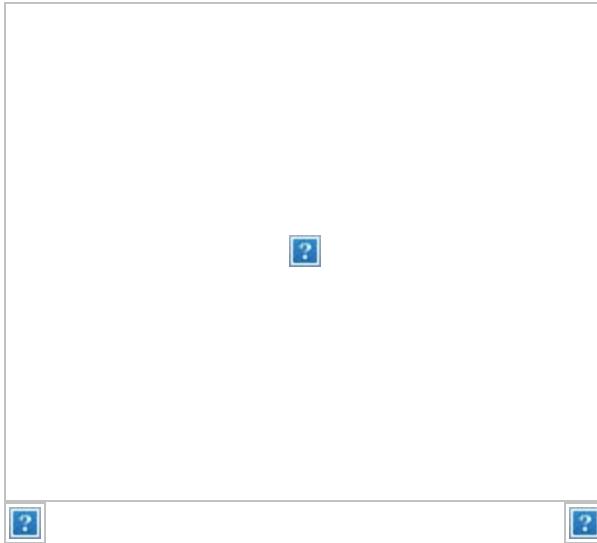
[**Men's Wearhouse Owner Files for Bankruptcy**](#)

By Gillian Friedman

Tailored Brands, known for its clothing chains Men's Wearhouse and JoS. A. Bank, struggled as the pandemic shut stores and consumer demand for office attire dropped.



ADVERTISEMENT



Technology

[**This Tool Could Protect Your Photos From Facial Recognition**](#)

By Kashmir Hill

Researchers at the University of Chicago want you to be able to post selfies without worrying that the next Clearview AI will use them to identify you.



[**How TikTok's Owner Tried, and Failed, to Cross the U.S.-China Divide**](#)

By Raymond Zhong

The founder of ByteDance, Zhang Yiming, dreamed of building a global tech company based in China. Then the geopolitical reality set in.



[**With TikTok, 'Uncool' Microsoft Aims for the Love of Tweens**](#)

By Karen Weise

Buying one of the largest and most influential social networks in the country could change the perception of the tech giant.



Sports

Gymnasts Worldwide Push Back on Their Sport's Culture of Abuse



By Juliet Macur

On Instagram and other social networks, gymnasts have tagged posts with #GymnastAlliance to share their own experiences in the wake of a new documentary that highlights verbal and physical abuse by coaches.

Why One Team Named the Indians Won't Be Changing Its Name



By David Waldstein

A minor league team in Spokane, Wash., has steadfastly stood by its nickname with the support of the local Native American community.

ON COLLEGE FOOTBALL



By Billy Witz

Kassidy Woods, a redshirt sophomore receiver at Washington State, was concerned about the pandemic. The coach was sympathetic until he learned he was joining a players' rights initiative.

For more sports news, go to [NYTimes.com/Sports](#) »

Arts

The Wild Story of Creem, Once 'America's Only Rock 'n' Roll Magazine'



By Mike Rubin

A new documentary traces the rise and fall of the irreverent, boundary-smashing music publication where Lester Bangs did some of his most famous work.

CRITIC'S NOTEBOOK

Muppet Meta Mania, Revived for the Streaming Era



By James Poniewozik

The Muppets were made of, by and for TV. Two new shows, “Muppets Now” on Disney+ and “The Not-Too-Late Show With Elmo” on HBO Max, reimagine the media-savvy furry friends for a new age.

Isabel Wilkerson’s ‘Caste’ Is an ‘Instant American Classic’ About Our Abiding Sin



By Dwight Garner

Wilkerson’s new book makes unsettling comparisons between India’s treatment of its untouchables, Nazi Germany’s treatment of Jews and America’s treatment of African-Americans.

For more arts news, go to [NYTimes.com/Arts](#) »

New York

These Remarks Might Get a Police Chief Fired. Not in New York.



By Emma G. Fitzsimmons

The police commissioner’s pointed criticism — and the fact that he still has his job — speaks to the mayor’s fraught relationship with the Police Department.

One-Third of New York’s Small Businesses May Be Gone Forever



By Matthew Haag

Small-business owners said they have exhausted federal and local assistance and see no end in sight after months of sharp revenue drops. Now, many are closing their shops and restaurants for good.

Judge Whose Son Was Killed by Misogynistic Lawyer Speaks Out

By Tracey Tully

“Two weeks ago, my life as I knew it changed in an instant, and my family will never be the same,” Judge Esther Salas said in a video statement.

Obituaries

John Hume, Nobel Laureate for Work in Northern Ireland, Dies at 83

By Alan Cowell

The politician's campaign for peace was seen as a driving force behind an end to 25 years of sectarian conflict in the territory.



Adam Max, Patron of Brooklyn Cultural Institutions, Dies at 62

By Sam Roberts

He was chairman of the Brooklyn Academy of Music and a benefactor of St. Ann's Warehouse. He and his wife also helped create a center for women's history.



Leon Fleisher, 92, Dies; Spellbinding Pianist Using One Hand or Two

By Allan Kozinn

Unable to use his right hand, he performed pieces written for left hand only, conducted and taught. Years later, he made a triumphant two-handed comeback.



Connie Culp, First Face Transplant Recipient in U.S., Dies at 57

By Bryan Pietsch

Her near-total transplant in 2008 was at the time the most complex one ever performed. She was the fourth patient in the world to undergo such a procedure.



Opinion

The Good News About What Human Genius Can

Still Do

By The Editorial Board

There's something uniquely compelling about our need to learn what we can about the universe.



I'd Need Evidence Before I Got a Covid-19 Vaccine. It Doesn't Exist Yet.

By Natalie Dean

Scientists need to show us the data. And that's exactly what they're working on.



Disenchanted Seniors for Biden

By Michelle Cottle

The pandemic is particularly dangerous for older Americans, and Trump is losing their support.



The Unemployed Stare Into the Abyss. Republicans Look Away.

By Paul Krugman

The cruelty and ignorance of Trump and his allies are creating another gratuitous disaster.



How Has the Electoral College Survived for This Long?

By Alexander Keyssar

Resistance to eliminating it has long been connected to the idea of white supremacy.



For more Opinion, go to [NYTimes.com/Opinion](#) »

Follow NYTimes

[Facebook](#) [Twitter](#) [Pinterest](#) [Instagram](#)

Get more [NYTimes.com newsletters](#) | [»](#)

Get unlimited access to NYTimes.com and
our NYTimes apps. [Subscribe](#) »



ABOUT THIS EMAIL

This is an automated email. Please do not reply directly to this email from NYTimes.com.

You received this message because you signed up for NYTimes.com's Today's Headlines newsletter.

[Unsubscribe](#) | [Manage Subscriptions](#) | [Change Your Email](#) | [Privacy Policy](#) | [Contact](#) | [Advertise](#) |
[California Notice](#)

Copyright 2020 The New York Times Company
620 Eighth Avenue New York, NY 10018